

# **Exhibit 12**

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**From:** ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)>  
**Sent:** Sunday, May 25, 2025 6:25 PM  
**To:** Michael C. Wilson <[mwilson@munckwilson.com](mailto:mwilson@munckwilson.com)>  
**Cc:** Tri T. Truong <[ttruong@munckwilson.com](mailto:ttruong@munckwilson.com)>; Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>; Mark Siegmund <[msiegmund@cjsjlaw.com](mailto:msiegmund@cjsjlaw.com)>; SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@cjsjlaw.com](mailto:wellerman@cjsjlaw.com)>  
**Subject:** RE: Intellectual Ventures v. Southwest - Motion for Leave

Michael,

We take strong issue to your recent email suggesting that IV attempted to “sneak” in additional patents or acted in any way that was inappropriate or unprofessional.

During our meet and confer, Southwest’s agreement not to oppose IV’s Motion for Leave to Amend was not conditioned on the number of patents to be newly asserted. IV was not in a position to provide a draft of the amended complaint without an enforceable written agreement ensuring there would be no risk of a declaratory judgment. Southwest did not provide that confirmation, instead requested a revised scheduling order, “As discussed yesterday, we are concerned with the logistics of how adding new patent claims at this point will impact the current case schedule. Please send us your proposal for how to modify the case schedule to accommodate adding the new patent claims.” IV acquiesced to Southwest’s request and provided a revised scheduling order, which the parties met and conferred on and mutually agreed upon.

Southwest’s counsel raised the issue of whether there were four or five patents for the first time upon receipt of the draft Unopposed Motion for Leave to File Amended Complaint and Joint Motion to Amend Scheduling Order. IV’s counsel immediately clarified that five patents would be newly asserted in the amended complaint. At no point that evening did Southwest object to IV proceeding with the filing.

Your email was sent 12 hours after Southwest had confirmed its consent and IV had clearly stated: “There are 5 additional patents to be asserted in the amended complaint. We will finalize and file shortly.” For Southwest to now reverse course is misleading.

If Southwest’s position is now to oppose IV’s Motion for Leave to File Amended Complaint and to rescind the Joint Motion to Amend the Scheduling Order, please let us know promptly so we can advise the Court. We are available to meet and confer.

Regards,  
Minh

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**From:** Michael C. Wilson <[mwilson@munckwilson.com](mailto:mwilson@munckwilson.com)>  
**Sent:** Saturday, May 24, 2025 6:11 AM  
**To:** ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)>  
**Cc:** Tri T. Truong <[ttruong@munckwilson.com](mailto:ttruong@munckwilson.com)>; Wallace Dunwoody

<[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>; Mark Siegmund <[msiegmund@cjsjlaw.com](mailto:msiegmund@cjsjlaw.com)>; SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@cjsjlaw.com](mailto:wellerman@cjsjlaw.com)>

**Subject:** Re: Intellectual Ventures v. Southwest - Motion for Leave

Minh: Intellectual Ventures requested to confer on amending the complaint to add four patents, not five. That is what we discussed on the call and what we discussed with our client. It is inappropriate and unprofessional to “sneak in” another patent.

The motion and proposed amended complaint should be limited to 4 patents. I am available today to discuss if you would like.

**Michael C. Wilson**

**Munck Wilson Mandala LLP**  
2000 McKinney Ave, Suite 1900  
Dallas, Texas 75201  
**Direct:** 972-628-3657  
**Cell:** 214-215-4076  
**Fax:** 972-628-3616  
**Email:** [mwilson@munckwilson.com](mailto:mwilson@munckwilson.com)

On May 24, 2025, at 7:48 AM, Michael C. Wilson <[mwilson@munckwilson.com](mailto:mwilson@munckwilson.com)> wrote:  
Minh: Please hold off on filing this. We will follow up later today.

**Michael C. Wilson**

**Munck Wilson Mandala LLP**  
2000 McKinney Ave, Suite 1900  
Dallas, Texas 75201  
**Direct:** 972-628-3657  
**Cell:** 214-215-4076  
**Fax:** 972-628-3616  
**Email:** [mwilson@munckwilson.com](mailto:mwilson@munckwilson.com)

On May 23, 2025, at 8:25 PM, ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)> wrote:

[External]

Hi Tri,

Thank you for your approval to file. We will revise as to the 6 patents originally asserted. There are 5 additional patents to be asserted in the amended complaint.

We will finalize and file shortly.

Many thanks,  
Minh

On May 23, 2025, at 6:21 PM, Tri T. Truong <[ttruong@munckwilson.com](mailto:ttruong@munckwilson.com)> wrote:  
Thank you for circulating the draft motions, Minh. We noticed that they refer to five additional patents instead of four, and that the motion for leave states the original complaint asserted 5 patents when 6 patents were asserted. Otherwise, the draft motions seem fine.  
Sent from my iPhone

On May 23, 2025, at 7:27 PM, ThucMinh Nguyen <[tnguyen@kasowitz.com](mailto:tnguyen@kasowitz.com)> wrote:

[External]

Wallace and Tri,

Thank you for working with us on the proposed amended scheduling order. Attached is the Unopposed Motion for Leave and Joint Motion to Amend Scheduling Order.

Please let us know whether we have your permission to file the attached.

Regards,  
Minh

**From:** ThucMinh Nguyen  
**Sent:** Friday, May 23, 2025 3:27 PM  
**To:** 'Wallace Dunwoody' <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>  
**Cc:** Mark Siegmund <[MSiegmund@cjsjlaw.com](mailto:MSiegmund@cjsjlaw.com)>; SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@cjsjlaw.com](mailto:wellerman@cjsjlaw.com)>  
**Subject:** RE: Intellectual Ventures v. Southwest - Motion for Leave

Wallace,

Thank you for sending back the revised schedule. Attached is some edits to the scheduling order, which keeps the trial date of January 11, 2027 while evenly spacing out the expert reports after close of fact discovery. If Southwest is agreeable to the attached, we can finalize and file this joint motion to amend the scheduling order. We will also be sending over the unopposed motion for leave to amend the complaint shortly.

As to the motion to stay the claim constructions deadline, we believe this is moot given the entry of our joint motion to amend the scheduling order, which sets opening claim construction on October 14, 2025.

Many thanks,  
Minh

**From:** Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>  
**Sent:** Friday, May 23, 2025 1:23 PM  
**To:** ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)>  
**Cc:** Mark Siegmund <[MSiegmund@cjsjlaw.com](mailto:MSiegmund@cjsjlaw.com)>; SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@cjsjlaw.com](mailto:wellerman@cjsjlaw.com)>  
**Subject:** RE: Intellectual Ventures v. Southwest - Motion for Leave

Counsel –

Here is a clean version of the amended schedule revised following our conversation this afternoon. I started with our (MWM) version from yesterday. I plugged in Jan. 11 as the trial date and Dec. 17 as the pretrial hearing. Working backwards, the other dates I moved forward 2 weeks, making one minor zigzag to avoid July 4 holiday, until I got to the deadline to add parties. I included 30 days to answer/MTD the amended complaint. I also deleted out any original deadlines that had already passed. Hopefully, this makes sense and is consistent with our discussion. If I made any mistakes, please let me know.

Also, we put together an unopposed motion for relief from next Tuesday's opening CC brief deadline. Please let us know if we can mark you as unopposed on that.

Best regards,

Wallace Dunwoody  
Munck Wilson Mandala, LLP

2000 McKinney Avenue, Suite 1900, Dallas, TX 75201  
Office: (972) 628-3636 Mobile: (214) 536-2297

**From:** ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)>  
**Sent:** Friday, May 23, 2025 10:36 AM  
**To:** Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>  
**Cc:** Mark Siegmund <[MSiegmund@cjsjlaw.com](mailto:MSiegmund@cjsjlaw.com)>; SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@cjsjlaw.com](mailto:wellerman@cjsjlaw.com)>  
**Subject:** Re: Intellectual Ventures v. Southwest - Motion for Leave

[External]

Hi Wallace,

Does 2:30PM CT work for you?

Many thanks,  
Minh

On May 23, 2025, at 8:28 AM, Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)> wrote:

Let's plan to discuss at 1:30. That should give us time to gather input from our client. I agree that claim construction should be agnostic to contentions when the court is deciding the correct constructions—but the infringement and invalidity issues obviously dictate what terms require construction, should be presented for indefiniteness, etc. As I'm sure you realize, there is a reason the patent contentions are normally scheduled before claim construction briefing starts. But I think it's worth discussing again.

Best regards,

Wallace Dunwoody  
Munck Wilson Mandala, LLP

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Office: (972) 628-3636 Mobile: (214) 536-2297

**From:** Mark Siegmund <[MSiegmund@CJSJLAW.com](mailto:MSiegmund@CJSJLAW.com)>  
**Sent:** Friday, May 23, 2025 9:49 AM  
**To:** Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>; ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)>  
**Cc:** SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@CJSJLAW.com](mailto:wellerman@CJSJLAW.com)>  
**Subject:** RE: Intellectual Ventures v. Southwest - Motion for Leave

[External]

Hi Wallace,

We are happy to provide SWA more time for their invalidity contentions. However, the deadline for invalidity contentions isn't dependent on the Markman briefing schedule. Judge Albright has repeatedly expressed this view that Markman is agnostic to infringement and invalidity contentions. If IV provides SWA the standard amount of time for SWA to serve its contentions, that should resolve your concern you expressed below. Let us know if you are agreeable.

Sincerely,  
Mark

**Mark D. Siegmund**  
Partner  
**CHERRY JOHNSON SIEGMUND JAMES, PLLC**  
(254)732-2242  
[www.cjsjlaw.com](http://www.cjsjlaw.com)

**From:** Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>  
**Sent:** Friday, May 23, 2025 8:24 AM  
**To:** ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)>  
**Cc:** Mark Siegmund <[MSiegmund@CJSJLAW.com](mailto:MSiegmund@CJSJLAW.com)>; SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@CJSJLAW.com](mailto:wellerman@CJSJLAW.com)>  
**Subject:** RE: Intellectual Ventures v. Southwest - Motion for Leave

I don't think we can recommend this schedule to our client because the time allotted for serving invalidity contentions is too compressed. We will need more time to investigate the new claims and prepare a proper defense. If there's a contested motion or a new lawsuit filed, I think we'd have more time than what you've proposed. That said, I do think we should discuss further. Let's plan to talk at 1:30 if that works on your end.

Best regards,

Wallace Dunwoody  
Munck Wilson Mandala, LLP

2000 McKinney Avenue, Suite 1900, Dallas, TX 75201  
Office: (972) 628-3636 Mobile: (214) 536-2297

**From:** ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)>  
**Sent:** Thursday, May 22, 2025 11:29 PM  
**To:** Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>  
**Cc:** Mark Siegmund <[MSiegmund@cjsjlaw.com](mailto:MSiegmund@cjsjlaw.com)>; SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@cjsjlaw.com](mailto:wellerman@cjsjlaw.com)>  
**Subject:** RE: Intellectual Ventures v. Southwest - Motion for Leave

[External]

Thanks Wallace.

Please find attached our proposal. Please let us know whether Southwest is agreeable and we can proceed with filing an unopposed motion for leave to amend the complaint tomorrow.

Happy to discuss at 1:30 PM CT or earlier.

Many thanks,  
Minh

**From:** Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>  
**Sent:** Thursday, May 22, 2025 4:10 PM  
**To:** ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)>  
**Cc:** Mark Siegmund <[MSiegmund@cjsjlaw.com](mailto:MSiegmund@cjsjlaw.com)>; SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@cjsjlaw.com](mailto:wellerman@cjsjlaw.com)>  
**Subject:** RE: Intellectual Ventures v. Southwest - Motion for Leave

Thanks for providing the proposed schedule. I've sketched out what I think might be agreeable on our end. The main difference is building in more time for invalidity searches and preparing invalidity contentions before heading into claim construction. So it would kick the case schedule back about 4 months. I haven't had a chance to confer with Southwest/potential witnesses about this yet. But let's discuss tomorrow. Maybe 1:30 CT?

Best regards,

Wallace Dunwoody  
Munck Wilson Mandala, LLP

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Office: (972) 628-3636 Mobile: (214) 536-2297

**From:** ThucMinh Nguyen <[TNguyen@kasowitz.com](mailto:TNguyen@kasowitz.com)>  
**Sent:** Thursday, May 22, 2025 3:01 PM  
**To:** Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>  
**Cc:** Mark Siegmund <[MSiegmund@cjsjlaw.com](mailto:MSiegmund@cjsjlaw.com)>; SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@cjsjlaw.com](mailto:wellerman@cjsjlaw.com)>  
**Subject:** Re: Intellectual Ventures v. Southwest - Motion for Leave

[External]

Counsel,

During our meet and confer regarding IV's anticipated move for leave to amend the complaint tomorrow, you requested a revised proposed schedule. Please find the requested schedule attached for your review.

Additionally, during our meet and confer, counsel for Southwest indicated that Southwest's venue deponent testified that Southwest does not perform unlicensed use cases of Kubernetes, Spark, and Hadoop. We explained that Southwest's witness was not prepared to testify

regarding Southwest's private cloud and identified another witness who had knowledge of these use cases. We explained that Southwest's witness did not have knowledge regarding unlicensed hosting services such as EC2. We asked during the call for Southwest to represent that these use cases are not and were not used by Southwest during the damages time period and Southwest was unable to confirm the same. To be clear, IV has no interest in pursuing claims that your clients can confirm after a reasonable investigation that you do not perform at all. To this end, please let us know if Southwest will provide a declaration confirming no unlicensed use of Kubernetes, Spark, and Hadoop or reasonably similar technology during the damages time period.

Regards,  
Minh

ThucMinh Nguyen  
Kasowitz Benson Torres LLP  
333 Twin Dolphin Drive, Suite 200  
Redwood Shores, CA 94065  
Tel. (650) 453-5420  
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**From:** Mark Siegmund <[MSiegmund@CJSJLAW.com](mailto:MSiegmund@CJSJLAW.com)>  
**Sent:** Wednesday, May 21, 2025 9:54 AM  
**To:** Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)>  
**Cc:** SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>; Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@CJSJLAW.com](mailto:wellerman@CJSJLAW.com)>  
**Subject:** Re: Intellectual Ventures v. Southwest - Motion for Leave

[External]

Hi Wallace,

That works with us.

Sent from my iPad

On May 20, 2025, at 6:16 PM, Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)> wrote:

Tomorrow afternoon is fine to discuss. How about 2:30 CT?

Best regards,

Wallace Dunwoody  
Munck Wilson Mandala, LLP

2000 McKinney Avenue, Suite 1900, Dallas, TX 75201  
Office: (972) 628-3636 Mobile: (214) 536-2297

**From:** Mark Siegmund <[MSiegmund@CJSJLAW.com](mailto:MSiegmund@CJSJLAW.com)>  
**Sent:** Tuesday, May 20, 2025 4:05 PM  
**To:** SWA-IV <[SWA-IV@munckwilson.com](mailto:SWA-IV@munckwilson.com)>  
**Cc:** Intellectual Ventures <[IntellectualVentures@kasowitz.com](mailto:IntellectualVentures@kasowitz.com)>; William Ellerman <[wellerman@CJSJLAW.com](mailto:wellerman@CJSJLAW.com)>  
**Subject:** Intellectual Ventures v. Southwest - Motion for Leave

[External]

Counsel,

IV intends to move for leave to add four additional patents in the case against Southwest by this Friday. We are happy to meet and confer with Southwest to discuss, but we need to schedule the meet and confer this week. Otherwise we will assume Southwest is opposed. Please let us know your availability for tomorrow afternoon, Thursday 1-2, 4-6 central, or Friday after 2:00pm central.

Sincerely,  
Mark

**MARK SIEGMUND**  
**PARTNER**  
[msiegmund@cjsjlaw.com](mailto:msiegmund@cjsjlaw.com)  
**O** 254.732.2242  
**C** 254.644.2122  
**F** 866.627.3509

**CHERRY JOHNSON SIEGMUND JAMES**  
Bridgeview Center  
7901 Fish Pond Rd, Second Floor  
Waco, Texas 76710

<image001.png>

On May 22, 2025, at 11:17 AM, Wallace Dunwoody <[wdunwoody@munckwilson.com](mailto:wdunwoody@munckwilson.com)> wrote:

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**ALERT: THIS IS AN EXTERNAL EMAIL. DO NOT CLICK ON ANY LINK, ENTER A PASSWORD, OR OPEN AN ATTACHMENT UNLESS YOU KNOW THAT THE MESSAGE CAME FROM A SAFE EMAIL ADDRESS.**

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Counsel –

As discussed yesterday, we are concerned with the logistics of how adding new patent claims at this point will impact the current case schedule. Please send us your proposal for how to modify the case schedule to accommodate adding the new patent claims.

Best regards,

Wallace Dunwoody  
Munck Wilson Mandala, LLP

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<2025 05 23 IV Unopposed Motion for Leave to File Amended Southwest Complaint.docx>  
<2025 05 23 Joint Motion to Amend Southwest Scheduling Order.docx>